

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING
ESTABLISHING PROCEDURAL SCHEDULE**

On July 1, 2003 the California Department of Water Resources (DWR) submitted to the Commission a supplemental determination of its 2003 revenue requirement. A prehearing conference (PHC) was held on July 8, 2003, followed by a workshop facilitated by staff from the Commission's Energy Division.

DWR's supplemental determination contains a significant reduction in its revenue requirement for 2003. In order to make the corresponding rate reduction available to ratepayers as soon as possible, and consistent with the very limited scope of this phase of this proceeding, the procedural schedule will be highly expedited.

Any party recommending that evidentiary hearings be held was required to specify the basis for that recommendation in a PHC statement. None of the parties that submitted PHC statements requested evidentiary hearings.¹ At the PHC, there was general consensus that evidentiary hearings were not required.

In addition, there was consensus on TURN's recommendation that all service in this phase of this proceeding be electronic only, due to the expedited schedule and large service list. For this phase only, we will only require parties to provide electronic service.² Any party who wishes to receive hard copies must immediately notify the service list, either by e-mail or letter, of its request to receive hard copy service. All documents that are served should also be served separately, via individual e-mail, to Administrative Law Judge Peter V. Allen at pva@cpuc.ca.gov. It is the sender's responsibility to ensure proper electronic service.

As discussed at the workshop, the procedural schedule is as follows:

July 11, 2003 – Utilities to provide comments to Energy Division regarding confidentiality of data in sample tables prepared by Energy Division. DWR to provide Energy Division with final revised and updated information.

July 15 – Energy Division to serve revised tables showing proposed allocation of DWR's 2003 revenue requirement.

¹ PHC statements were submitted by Pacific Gas and Electric (PG&E), Southern California Edison (SCE), San Diego Gas and Electric (SDG&E), The Utility Reform Network (TURN), and the Office of Ratepayer Advocates (ORA).

² Filings with the Commission's Docket Office must meet the standard Docket Office requirements.

July 18 – Conference call with Energy Division for parties to discuss the revised tables served on July 15.

July 25 – Parties’ Comments to be served no later than 12 noon, and filed by close of business.

August 4 – Parties’ Reply Comments to be served and filed by close of business.

August 20 – Draft Decision

August 28 – Comments on Proposed Decision to be served no later than 12 noon, and filed by close of business (shortened comment period).

September 4 – Agenda Decision.

Please note that the scope of this phase of this proceeding is limited by the Commission’s earlier Decision (D.) 02-12-045.³ In that decision, the Commission stated:

In order to avoid unnecessary delay in implementing the revised allocation, the Commission will use the methodology approved today, with the exception of the allocation of ancillary services. Re-litigation of the allocation methodology will not be allowed (again with the exception of ancillary services), absent extraordinary circumstances. (D.02-12-045, p. 43.)

Accordingly, the scope of this phase of this proceeding will apply the allocation methodology previously adopted by the Commission to DWR’s supplemental determination.⁴ Energy Division’s July 15 tables will apply the

³ D.02-12-045 was subsequently modified on unrelated issues.

⁴ SCE argued in its PHC statement and at the PHC that the Commission should reconsider the allocation methodology adopted for 2003, and should adopt a “cost-follows-contracts” methodology, as previously advocated by SCE. SCE has not persuaded us of the existence of “extraordinary circumstances,” and accordingly its attempt to relitigate this issue is rejected as inconsistent with D.02-12-045.

methodology adopted in D.02-12-045 to DWR's supplemental determination of its 2003 revenue requirement.

In their opening (July 25) Comments, parties should specifically propose how the reduction in DWR's 2003 revenue requirement should flow back to ratepayers. Parties should be aware of the language in the Addendum to the Summary of Material Terms of Financing Documents (Addendum),⁵ which states in relevant part:

...Unless otherwise agreed by both the CPUC and DWR, each acting in their own discretion, any Excess Amounts remaining after application to the uses described in the preceding sentence, shall be used, at the direction of CPUC, after consultation with DWR, to (i) adjust DWR Charges or (ii) with the agreement of DWR, reduce debt outstanding under the proposed Bond Indenture, in all instances, upon consideration of the interests of the retail customers of the Electrical Corporations, DWR and, if applicable, ESP retail customers.⁶

Accordingly, in this proceeding, absent the agreement of DWR, we must pass through the reduction in DWR's 2003 revenue requirement by adjusting DWR Charges.⁷ In other words, we need to reduce the charges that ratepayers pay to DWR (which the utilities collect on behalf of DWR), not just the utilities' remittances to DWR.

⁵ For convenient reference, the Summary of Material Terms and the Addendum are attached to this Ruling.

⁶ Addendum, Section 3, re disposition of the Operating Reserve Account. Section 5 of the Addendum states that excess amounts in the Operating Account "shall be utilized in the same manner" as set forth in Section 3.

⁷ Examples of "DWR Charges" include the Power Charge and the Bond Charge.

If parties wish to propose any other method for passing the reduction back to ratepayers, they should be aware that such a method requires the agreement of DWR and the Commission, and should provide support for why DWR and the Commission should agree to depart from the pre-approved terms of the Addendum. Parties whose proposals are consistent with the language of the Addendum should address which DWR Charges should be adjusted, by how much, over what period of time, and the mechanics of how the adjustment would be done. All parties should discuss how their proposal is consistent with the interests of retail customers and the existing Servicing Agreements between the utilities and DWR.

Since direct access and departing load customers share responsibility with bundled customers for the 2003 DWR revenue requirements pursuant to a series of Commission orders issued in Rulemaking (R.) 02-01-11, parties' proposals shall take into account the appropriate allocation of 2003 DWR costs to direct access and departing load customers. A separate ruling was issued in R.02-01-011 on June 24, 2003 to implement a process in coordination with this proceeding to quantify the appropriate portion of the 2003 DWR revenue requirement redetermination allocable to direct access and departing load customers. Such customers are currently subject to a fixed cost responsibility surcharge cap, and bundled customers currently absorb shortfalls in cost recovery from Direct Access and Departing Load customers subject to future reimbursement. An accurate allocation of the 2003 DWR revenue requirements to direct access and departing load customer groups is essential, therefore, to assure that undercollections in cost recovery are accurately finalized for future reimbursement to bundled customers. In the interests of coordination, a copy of

this ruling shall be served on parties in the direct access rulemaking (R.02-01-011) for information purposes.

Any party that intends to argue that other utility rates should be (or automatically will be) altered as a consequence of a reduction in DWR Charges (e.g. other rates would increase to offset the reduction in the DWR Charges) must provide in its opening Comments a clear basis for that position, including any supporting legal authorities and policy arguments. This direction also applies to PG&E's proposals to net "WAPA true-up" remittances against the reduction in DWR's revenue requirement, and to incorporate the reduction in PG&E's post-bankruptcy rates. (PG&E PHC Statement, pp. 2-6.)

SCE requested that the Commission adopt here a specified true-up methodology for DWR revenue requirements. (SCE PHC Statement, p. 7.)⁸ The issue of true-ups, both for the 2001-2002 period and for 2003, is a contentious one, with significant differences between the positions of the major utilities. DWR clarified at the PHC that all data necessary for a 2001-2002 true up is now available. Consistent with our previous decision (D.02-12-045, p. 37), the issue of true-ups will be examined separately from DWR's supplemental determination. A separate ruling will be issued setting forth how we will address both the 2001-2002 true up, and the methodology to be used for the 2003 true up; parties should also be prepared to address how a true-up phase could be eliminated in the future.

⁸ In this context, "true-up" refers to an adjustment of the inter-utility allocation of DWR's revenue requirement. To the extent that DWR over-collects or under-collects its revenue requirement for a given year, that is adjusted in DWR's subsequent revenue requirement determination.

The 2001-2002 true up shall also be coordinated with the finalization of the 2001-2002 undercollection of DWR costs that are the responsibility of direct access and departing load customers. Any subsequent rulings addressing the issue of the 2001-2002 true up shall take into account, as appropriate, coordinated measures that are required in R.02-01-011 in order to finalize the direct access and departing load cost responsibility undercollection for 2001-2002.

IT IS RULED:

1. No evidentiary hearing will be held in this phase of this proceeding.
2. For this phase of this proceeding only, all service of documents will be electronic only, as described above.
3. The procedural schedule is established, as described above.
4. The scope and methodology of this phase of this proceeding are consistent with Decision (D.) 02-12-045.
5. SCE's argument to relitigate the previously adopted allocation methodology is rejected.
6. Parties are to address in their July 25 Comments their proposal for how the reduction in the California Department of Water Resources' (DWR) 2003 revenue requirement is to be returned to ratepayers, and how that proposal relates to the requirements of the Addendum, as described above.
7. Any arguments that utility rates should or automatically will be changed to offset reductions in DWR charges are to be presented in the July 25 Comments, as described above.
8. The true-up of DWR's 2001-2002 and 2003 revenue requirements will not be addressed here, but will be addressed in a separate phase of this proceeding.

9. A copy of this ruling shall be served on parties of record in R.02-01-011 to promote coordination and consistency in the allocation of DWR charges among direct access, departing load, and bundled customers.

Dated July 15, 2003, at San Francisco, California.

/s/ PETER V. ALLEN

Peter V. Allen
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Establishing Procedural Schedule on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail. A copy of this ruling shall be served on parties of record in R.02-01-011.

Dated July 15, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

A.00-11-038, et al. PVA/hl2

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.